

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

CHARLIE D. JACKSON,

Plaintiff

Case No. 3:20-cv-00705-MMD-CLB

ORDER

v.

CHARLES DANIELS,

Defendant

I. DISCUSSION

On December 28, 2020, this Court ordered Plaintiff to file a fully complete application to proceed *in forma pauperis* or pay the full \$402 filing fee on or before February 22, 2021. (ECF No. 3). On February 22, 2021, Plaintiff filed a request for enlargement of time to file his six-month financial certificate because he had not yet received his financial certificate from prison officials at the NDOC. (ECF No. 5). The Court will grant Plaintiff this one-time extension. Plaintiff shall file a fully complete application to proceed *in forma pauperis* or pay the full \$402 filing fee on or before **March 31, 2021**. Absent unusual circumstances, no further extensions will be granted.

In the event Plaintiff is having difficulty obtaining his financial certificate and inmate account statement from prison officials, Plaintiff shall file an affidavit in this case detailing when he requested the documents following the Court's December 28, 2020 order, who he spoke to about the status of the documents, who he followed up with after he did not receive the documents, and their responses. In other words, if Plaintiff is unable to acquire the necessary documents from prison officials, after making Immediate efforts to do so following receipt of this Court's order dated December 28, 2020, he must provide the Court with an affidavit, signed under the penalty of perjury, that demonstrates he has

1 done all that he could to acquire the documents by the Court's deadline of **March 31,**
2 **2021**. Plaintiff's affidavit should include dates of his requests, dates of his follow-up
3 requests, names of the prison officials that he spoke to about the matter, and their
4 responses. If Plaintiff's affidavit demonstrates that he immediately did all that was
5 possible to acquire the documents, the Court will consider his application to proceed *in*
6 *forma pauperis* complete.¹

8 If Plaintiff does not file a fully complete application to proceed *in forma pauperis*
9 with all three required documents, or the first three pages of the application to proceed *in*
10 *forma pauperis* and an affidavit detailing the efforts he took to acquire his financial
11 certificate and inmate account statement from prison officials, or pay the full \$402 filing
12 fee for a civil action on or before **March 31, 2021**, this case will be subject to dismissal
13 without prejudice for Plaintiff to file a new case with the Court when Plaintiff is able to
14 acquire all three of the documents needed to file a fully complete application to proceed
15 *in forma pauperis* or pays the \$402 filing fee.

18 A dismissal without prejudice means Plaintiff does not give up the right to refile the
19 case with the Court, under a new case number, when Plaintiff has all three documents
20 needed to submit with the application to proceed *in forma pauperis*. Alternatively, Plaintiff
21 may choose not to file an application to proceed *in forma pauperis* and instead pay the
22 full filing fee of \$402 on or before **March 31, 2021** to proceed with this case.

24 The Court will retain Plaintiff's civil rights complaint (ECF No. 1-1), but the Court

26
27 ¹ Plaintiff must still submit the first three pages of the application to proceed *in*
28 *forma pauperis* on this Court's approved form with his affidavit. If Plaintiff does not submit
the first three pages of the application to proceed *in forma pauperis* with the affidavit, the
Court will dismiss the case without prejudice for Plaintiff to open a new case when he is
able to acquire the required documents.

1 will not file the complaint unless and until Plaintiff timely files a fully complete application
2 to proceed *in forma pauperis* with all three documents or pays the full \$402 filing fee.

3 **II. CONCLUSION**

4 IT IS ORDERED that Plaintiff's request for enlargement of time (ECF No. 5) is
5 granted.
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7 IT IS FURTHER ORDERED that the Clerk of the Court will send Plaintiff the
8 approved form application to proceed *in forma pauperis* by an inmate, as well as the
9 document entitled information and instructions for filing an *in forma pauperis* application.
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11 IT IS FURTHER ORDERED that on or before **March 31, 2021**, Plaintiff will either
12 pay the full \$402 filing fee for a civil action (which includes the \$350 filing fee and the \$52
13 administrative fee) or file with the Court:

14 (1) a completed **Application to Proceed in Forma Pauperis for Inmate** on this
15 Court's approved form (i.e. pages 1 through 3 of the form with the inmate's two
16 signatures on page 3),
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18 (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail
19 official (i.e. page 4 of this Court's approved form), and

20 (3) a copy of the **inmate's prison or jail trust fund account statement for the**
21 **previous six-month period.**
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23 IT IS FURTHER ORDERED that if Plaintiff is not able to obtain his financial
24 certificate and inmate account statement from the prison facility, Plaintiff shall file the first
25 three pages of the application to proceed *in forma pauperis* and submit an affidavit, signed
26 under the penalty of perjury, detailing the efforts he took to acquire his financial certificate
27 and inmate account statement from prison officials.
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1 IT IS FURTHER ORDERED that, if Plaintiff does not file a fully complete
2 application to proceed *in forma pauperis* with all three documents, or the first three pages
3 of the application to proceed *in forma pauperis* and an affidavit detailing the efforts he
4 took to acquire his financial certificate and inmate account statement from prison officials,
5 or pay the full \$402 filing fee for a civil action on or before **March 31, 2021**, this case will
6 be subject to dismissal without prejudice for Plaintiff to refile the case with the Court,
7 under a new case number, when Plaintiff has all three documents needed to file a
8 complete application to proceed *in forma pauperis* or pays the full \$402 filing fee.
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10 IT IS FURTHER ORDERED that the Clerk of the Court will retain the complaint
11 (ECF No.1-1), but the Court will not file the complaint unless and until Plaintiff timely files
12 a fully complete application to proceed *in forma pauperis* with all three documents or pays
13 the full \$402 filing fee.
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15 DATED: March 1, 2021
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18 UNITED STATES MAGISTRATE JUDGE
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